

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA,	)	
EX REL.HICHEM CHIHI, <i>et al.</i> ,	)	
	)	
<i>Plaintiff-Relator,</i>	)	Judge Charles R. Eskridge III
	)	
v.	)	Civil Case No. 4:18-cv-00123
	)	
CATHOLIC HEALTH INITIATIVES,	)	
<i>et al.</i> ,	)	
	)	
<i>Defendants.</i>	)	

**RELATOR'S UNOPPOSED MOTION FOR LEAVE TO FILE  
CONSOLIDATED RESPONSE BRIEF AND FOR APPROVAL OF  
PARTIES' STIPULATED AMENDED BRIEFING SCHEDULE**

Plaintiff-Relator Hichem Chihi, by his attorneys, respectfully moves this Court for leave to file a consolidated response to the Defendants' two separate motions to dismiss and for approval of the parties' stipulated modified briefing schedule set forth below. A proposed order to that effect is attached as Exhibit A.

**Oversized Consolidated Brief**

1. On November 16, 2020, the Hospital Defendants (Catholic Health Initiatives and CHI-St. Luke's Health) and the remaining Provider Defendants filed two separate motion to dismiss, totaling 28,114 total words and raising many complex grounds for dismissal of Plaintiff's complaint. Dkts. 302 & 303.

2. Pursuant to the Court's January 10, 2020 order, Relator is permitted 10,000 words to respond to the motion to dismiss of the Hospital Defendants, and 20,000 words to respond to that of the Provider Defendants. Dkt. 261.

3. Given the overlap in arguments between the motions to dismiss filed by Defendants, Relator respectfully seeks leave to instead file a single, consolidated response brief of no more than 30,000 words to both motions to dismiss, to streamline and simplify the briefing for the parties and this Court.

4. A consolidated response brief will permit Relator to combine responses to overlapping arguments asserted in Defendants' briefs and avoid duplicative and redundant briefing.

5. Plaintiff was previously granted leave to file a consolidated, oversize brief in response to the prior round of motions to dismiss filed by Defendants, without objection or issue. *See* Dkts. 197 & 200.

6. Plaintiff has consulted with counsel for the Hospital Defendants and Provider Defendants, and all Defendants have indicated that they do not oppose Plaintiff's request for a consolidated brief.

#### **Approval of Stipulated Amended Briefing Schedule**

7. Pursuant to the Court's January 10, 2020 order, Relator's response briefs in opposition to dismissal are currently due on New Year's

Eve, December 31, 2020, with Defendants' reply briefs due 14 days later, on January 14, 2021. *See* Dkt. 261.

8. The parties have instead stipulated and agreed to the following proposed amended briefing schedule: Relator's response briefs due January 11, 2021, and Defendants' reply briefs due 24 days later, on February 4, 2021. The proposed amended briefing schedule would afford all Parties an additional ten days to file their respective remaining briefs.

9. Good cause exists for this agreed modification to the briefing schedule to enable the parties to properly present their arguments to the Court on the complex issues raised by Defendants' motions to dismiss, which seek the dispositive relief of dismissal of Plaintiff's claims in their entirety.

10. Even with due diligence and giving priority to the brief, undersigned counsel will have serious difficulty filing Relator's response briefs and properly presenting Relator's arguments to the Court in response to the 28,114-word motions to dismiss by the December 31, 2020 deadline due to the complex nature of the issues raised therein and the overlap between the winter holidays and the timeframe for Relator's response. Relator's undersigned counsel and the assigned paralegal staff are planning to be out of the office for two weeks during the winter holidays, including over the Christmas and New Year's holiday. In addition, Relator's undersigned counsel currently faces unusually heavy litigation demands, including

primary responsibility for briefs on two lengthy and contested motions in *Bouto v. Guevara, et al.*, No. 19 C 2441 (N.D. Ill.), currently due on December 9<sup>th</sup> and December 21<sup>st</sup>; a motion for certification of an appeal as frivolous in *Bledsoe v. Jefferson County, et al.*, No. 16 C 2296 (D. Kansas), currently due on December 28; and a response to motions for summary judgment in *Henry v. Hulett, et al.*, No. 3:12-cv-03087 (C.D. Ill.), currently due on January 8, 2021.

11. This is the first request by the parties for any extension to the briefing schedule, and this motion is brought in good faith and not for any dilatory purpose.

12. Accordingly, Relator asks the Court to approve the parties' stipulated modified briefing schedule for the motions to dismiss.

WHEREFORE, Relator asks that this Court grant the following relief:

- Grant Plaintiff leave to file a consolidated response brief of no more than 30,000 words to Defendants' two motions to dismiss.
- Adopt and approve the parties' stipulated modified briefing schedule, pursuant to which:
  - Plaintiff's response to the motions to dismiss shall be due January 11, 2020.
  - Defendants' replies in support of their motions to dismiss shall be due February 4, 2020.

A proposed order to that effect is attached as Exhibit A.

Dated: December 8, 2020

Respectfully submitted,

By: /s/ Ruth Brown  
Ruth Brown  
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**CERTIFICATE OF CONFERENCE**

I, Ruth Brown, certify that I conferred with counsel for Defendants Catholic Health Initiatives and CHI-St. Luke's Health (Attorney Kevin Coffee), who, after conferring with all Defendants in the case, confirmed on November 30 and December 8 that all Defendants are unopposed to the relief sought in this motion and stipulate to the agreed modified briefing schedule set forth therein.

By: /s/ Ruth Brown  
Counsel for Plaintiff Hichem Chihi

**CERTIFICATE OF SERVICE**

I certify that on December 8, 2020, the above and foregoing Unopposed Motion was electronically filed with the Clerk of the court using the CM/ECF system, which will send notification to the attorney(s) of record in this matter.

By: /s/ Ruth Brown  
Counsel for Plaintiff Hichem Chihi